

REMARKS

I. Examiner Interview

Applicants' attorneys appreciate the Examiner's courtesy in speaking with them on November 5, 2007, regarding the outstanding office action. The interview included discussion of the §101 rejections.

II. Status

Claims 1-20 and 39-50 have been allowed. Claims 1-20 and 39-56 are currently pending.

III. Rejections Under 35 U.S.C. § 101

Claims 51-56 were rejected as being directed to non-statutory subject matter. (Office Action, page 2). However, Applicants respectfully disagree with the Examiner's assertion.

Independent claim 51 recites features in a means-plus-function format in which the means represent structure described in the Applicants' specification for performing the recited functions. 35 U.S.C. § 112, paragraph six, sets out that such means-plus-function claims shall be construed to cover the corresponding *structure* or *material* described in the specification and equivalents thereof. According to the Federal Circuit, the means of a means-plus-function claim directed to a software process corresponds to the *structure* programmed to perform the algorithm. WMS Gaming v. Int'l Game Tech., 184 F.3d 1339, 1349 (Fed. Cir. 1999). Therefore, even though Applicants' specification recites that features of the embodiments may be implemented using any desired combination of hardware and/or software, one cannot construe the means to be only software. The means include the tangible structure embodying or containing the software for performing the recited functions. Because the Applicants' specification describes tangible structure that is used to perform the recited features, claim 51 and its dependent claims are not directed to non-statutory subject matter.

Additionally, the United States Patent and Trademark Office has issued patents with means-plus-function claims in which the respective specifications describe implementations as software and/or hardware. For example, U.S. Patent

6,141,567 includes a means-plus-function claim, claim 41, regarding the processing of received signals, and U.S. Patent 7,295,614 includes means-plus-function claims, claims 38 and 39, related to encoding a video signal. Column 9, lines 12-17 of the 6,141,567 patent and column 15, lines 35-36 of the 7,295,614 patent mention that features of the respective inventions may be implemented by software and/or hardware. According to the Examiner's interpretation, the means of these patents may be only a software implementation. However, the means include the tangible structure embodying or containing the software for performing the recited functions.

Accordingly, claim 51 and its dependents are allowable for at least these reasons.

IV. Summary

It is respectfully asserted that all of the pending claims are patentable over the cited references, and allowance of the pending claims is earnestly solicited. If the Examiner believes that a telephone interview would be helpful in resolving any outstanding issues, the Examiner is respectfully invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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